

## **REMARKS/ARGUMENTS**

### **Objections**

Claims 94 and 97 are stand objected due to their usage of abbreviated names that should be defined. Claim 99 stands objected due to a misspelling of the word "aquired". These errors have been corrected.

### **Rejections under 35 U.S.C. § 101**

Claims 94, 96, 97, 99-102, and 128-131 are rejected for allegedly being directed toward non-statutory subject matter. Claim 128 has been cancelled and the remaining claims have been amended to use the term "recombinant bio-detector" as suggested by the examiner.

### **Rejections under 35 U.S.C. § 112, Second paragraph**

Claim 94 is rejected as being indefinite for failing to point out what is included or excluded by the claim language. The phrase "wherein the encoded product is" has been added to more clearly define what is being activated by the elicitor.

Claim 95 and its dependent claims are rejected as being indefinite for failing to point out what is included or excluded by the claim language. Claim 95 has been amended to more clearly define that the specified characteristic is a novel recognition specificity not found in nature. Supprot for the amendment can be found in the specification on page 12, lines 14-19.

Claims 96 and 97 are rejected as being indefinite for failing to point out what is included or excluded by the claim language. As suggested by the examiner, the term "designated elicitor" has been replaced with the term "corresponding elicitor" in order to clarify the claim.

Claim 99 is rejected as being indefinite for failing to point out what is included or excluded by the claim language. The claim has been amended to more clearly define the invention with the inclusion of the phrase "the promoter comprises a systemic acquired resistance (SAR) pathway promoter" as suggested by the examiner.

Claims 128-132 are allegedly indefinite due to the lack of clarity of the term "environmentally relevant ligand". Claim 128 has been cancelled. Claim 129 has been amended to depend from claim 94 and the term "environmentally relevant ligand" has been removed such that the claim no longer reads "...wherein the environmentally relevant ligand is a component of a crop pathogen." but instead now reads "...wherein the elicitor is a ligand that is a component of a crop pathogen." Claims 130-132 have been amended in the same manner such that they now contain clear definite terminology. In addition, claim 132 has been amended to more clearly define that the ligand is a human pathogen and/or animal pathogen.

Claim 130 is rejected as being indefinite for failing to point out what is included or excluded by the claim language. The claim has been amended to more clearly define that the product is produced by a crop pathogen by following the examiner's remedial suggestion. The claim has been further clarified by removing the phrase "that has not been ascribed elicitor function."

Claims 98, 103, and 104 are objected to as being dependent upon a rejected base claim. The above amendments will remove this encumbrance from the allowability of these claims.

**Additional Items**

The information disclosure statement filed December 11, 2001 (Paper No. 5) did not comply with 37 CFR 1.98 in that several of the cited references were not supplied. Citation No. AC, AF, AJ, AL, BD, BG, and CE are now provided.

A Sequence Listing is provided herewith pursuant to 37 C.F.R. § 1.821. No new matter is introduced in the Sequence Listing, as the sequences in the Sequence Listing are identical to those in the Specification at page 15, lines 20 and 21. The Specification is being amended to reference the sequence identification numbers corresponding to those associated with the sequences in the Sequence Listing.

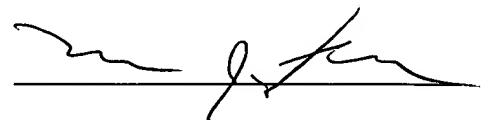
The sequence listing in Computer Readable Format accompanies this amendment. The undersigned hereby states that the paper copy of the Sequence Listing submitted concurrently herewith does not include matter which goes beyond the content of the application as filed, and that the Sequence Listing CRF enclosed is identical to the paper copy of the Sequence Listing.

No new matter is being introduced by entry of the foregoing amendments.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

May 14, 2003



Norman J. Kruse  
Attorney for Applicant  
Reg. No. 35,235

MAXYGEN, INC.  
Intellectual Property Department  
515 Galveston Drive  
Redwood City, California 94063  
(650) 298-5421 (telephone)  
(650) 298-5446 (facsimile)  
Customer No. 30560



SEQUENCE LISTING

<110> Lassner, Michael  
English, James  
Wu, Gusui

<120> EVOLUTION OF PLANT DISEASE RESPONSE PLANT PATHWAYS TO ENABLE THE  
DEVELOPMENT OF PLANT BASED BIOLOGICAL SENSORS AND TO DEVELOP NOVEL DISEASE  
RESISTANCE STRATEGIES

<130> 0137.210 US

<140> 09/849,452

<141> 2001-05-04

<150> 60/202,233

<151> 2000-05-05

<160> 2

<170> FastSEQ for Windows Version 4.0

<210> 1

<211> 7

<212> PRT

<213> Pseudomonas syringae

<400> 1

Gly Gly Gly Leu Gly Thr Pro  
1 5

<210> 2

<211> 4

<212> PRT

<213> Psuedomonas syringae

<400> 2

Gln Thr Gly Thr  
1